

**FISHER ISLAND MUNICIPAL ADVISORY COMMITTEE
PUBLIC HEARING**

UNAPPROVED MINUTES FOR
WEDNESDAY, JANUARY 5, 2005

1. Call to Order

Robert Vole MAC member, offered greetings, brief opening statements and led a moment of silence for the victims of the Tsunami Vole turned the meeting over to Ira Ostrow, MAC Chair.

2. introductions

Ostrow acknowledged that all MAC Members were present, and recognized Michael Piazzzi as a representative for the developer. Ostrow asked whether there was a representative for the new owner of the Island, as it was recently sold. No representative was identified as being, present. Ostrow expressed the MAC's willingness to work with the new developer for the betterment of the residents of the Island. MAC members, William Charouhis, Robert Vole, Jorge Garcia, Javier Acosta, Michael Pearze, and Carolyn Sakolsky were introduced to the public. The City of Doral Mayor Juan Carlos Bermudez and the Village of Indian Creek Manager Sam Kissinger were recognized. Ostrow acknowledge that County Commissioner Bruno Barreiro and the City of Sunny Isles Beach Mayor Norman Edelcup were expected to arrive shortly.

3. Background

Ostrow provided the following background on the incorporation process:

In 1999 a group of gentlemen put forward an effort to incorporate Fisher Island. Unfortunately, the effort got hung-up on the ladder when the then County Manager, realizing the rush of incorporation, created a moratorium on incorporation. The Fisher Island incorporation effort ended there. When the moratorium ended, no one picked up the effort to incorporate.

Every year through the Community Council, the County asks Fisher Island to submit a list of projects that the community wishes to get done. However, the County response is that: the projects cannot be funded because the island is a private community. Unless Fisher Island opens up its door to the public, it cannot get funding from its own taxes.

A new effort to incorporate was picked up during the past year. Therefore, the reason for holding the public hearing. The MAC acts as a liaison between the Fisher

Island community and the Board of County Commissioners (BCC). The MAC does not decide anything except whether to recommend incorporating.

4. Discussion on Incorporation

Ostrow recognized the arrival of City of Sunny Isles Beach Mayor. Ostrow turned over the meeting to Lynn Dannheisser, Sunny Isles City Attorney, for introductions of invited speakers.

Dannheisser expressed appreciation for the invitation to introduce the guest speakers. Dannheisser introduced the Mayor of Sunny Isles Beach, Norman Edelcup, and identified him as someone who was part of the initial incorporation effort of Sunny Isles.

Edelcup explained that in 1997 Sunny Isle decided to incorporate; the process started in 1995. It was decided incorporation would provide control to improve Sunny Isle because at that time it was the forgotten corner of NE Dade. Security was a major pitfall, as the County lacked the ability to cover the area in a way that satisfied the community's seventeen thousand residents who were concerned with the police response time. Incorporation redirected property taxes back to the community, providing local control.

In the heydays of the 50's Sunny Isle Beach was a celebrity spot. During the early 90's the area became neglected. More taxes were collected than those spent in the area. Security and control over taxes was the motivation for incorporation. Eighty percent voted in favor of succeeding from the County.

The city started with 6 police officers; now the city has a force of 50 officers. It started with one park, now it has five parks. In 1997 it had a tax base of 1.3 billion, now it has 3.6 billion and is growing. Free shuttle services are offered to all citizens. The citizens have seen the benefits of becoming a city. Taxes have remained the same. It is among the six or seven lowest in the County. In 1997 the city budget was 7 million, now it is 17 million; 10 million are just born real estate taxes. The rest comes from taxes such as State taxes, communication taxes, etc.

The city has enough savings in reserve funds for hurricane emergencies. Development in the area is complimentary of the area. They have created appropriate zoning laws for community. Edelcup made closing remarks and turned the meeting over to Dannheisser.

Dannheisser introduced the City of Doral Mayor Juan Carlos Bermudez.

Bermudez congratulated the MAC on its efforts to incorporate and recognized the County representatives in attendance.

Bermudez explained that Doral had similar reasons to incorporate as Sunny Isle Beach. Doral was left at the altar in 1995 when the moratorium on incorporation was imposed. The first time Doral tried to incorporate it had a hard time convincing the business community of the benefits of incorporation. To that end, One Doral was created to bring along the businesses.

As the Chair of the Doral Community Council, it was frustrating for him that County money was not coming to Doral.

The change in Doral in the last five years has been great. On January 28, 2003 Doral incorporated with the largest percentage of population voting in favor of any incorporation to date.

Bermudez added that mitigation is inequitable and unfair - eight million dollars of Doral's budget go to the County for mitigation. Miami Lakes and Palmetto Bay pay less than half when put together. Despite the mitigation payment, the benefits of creating the City of Doral are great. The City has its own advisory boards and gets to make its own decisions. More taxes dollars are kept in the City. Impact fees from developers were not going back to the City when it was unincorporated, now 60% of those dollars are going back to the City.

Bermudez expressed support of the efforts of Fisher Island MAC and advised them that it will be an uphill battle with the County since the County would look at a community like Fisher Island under the microscope. He philosophically believes that the County will survive even with all the incorporations that have taken place since 1996. There has been six new cities incorporated and the County still has grown by an additional four thousand employees. Among the benefits to incorporate is the ability to acquire real estate enhance the city esthetically, and an increase in property value has happened in every place that incorporate.

The City of Doral had the benefit to choose its own police commander. The response time has improved dramatically. Even when the headquarter for the police in the Doral area is in their area, the response time before incorporation was terrible. It is important to know everyone in the community. The City will have its own baseball field once the County Park Department complete a deed transfer. The City also got a million dollars from Tallahassee for the community. Even with the County bureaucracy it is better to be incorporated. Bermudez encouraged the MAC and the public to continue with incorporation. Doral has the third lowest tax millage in Miami-Dade County. Only Aventura and Pinecrest have lower. Bermudez turned

over to Dannheisser.

Dannheisser introduced County Staff: Peter Velar, Assistant Director for Incorporation and Annexation Services; Jason Rodriguez and Sarah Ingle, both staff liaison to the MAC, Dannheisser introduced the Manager of the Village of Indian Creek.

Kissinger explained that he was the first Mayor of Key Biscayne when it incorporated in 1996. Now he is the Indian Creek Village Manager. He noted that he was Mayor of one of the lowest tax rate cities in the County and now is the Manager of the City with the highest tax rate at 10 mill. They are only 35 homes in the area. The purpose of Indian Creek incorporation was security driven. They have a police department of 14 officers and 4 civilians. They do not permit entrance to the Island unless is for the use of the Golf course. Today, he could not find anti-incorporation voices that complained about the premises of incorporation. The opposition today is more about what has been done since incorporation. Once a city is formed, it becomes an information center, a government services agency. There is also the fact of electing your own Mayor. Everyone loves knowing the Mayor. Closing remarks offered and turned to Dannheisser

Dannheisser clarified that the next item on the agenda; five reasons pro incorporation read as if those were her ideas and clarified that those are the MAC. Dannheisser explained that she assisted the Village of Palmetto Bay during its Charter Commission. Dannheisser turned the meeting over to the MAC.

5. The MAC's Opinion on Incorporation

Ostrow thanked all panelists and noted that the fact that there is a County department dedicated to incorporation is a plus for the Fisher Island MAC efforts, Ostrow thanked Peter Velar and his staff.

Ostrow expressed that in his opinion, Fisher Island by now should be able to control its own destiny, to have the control of the decision making, of acquiring something as a municipality. Ostrow pointed out that all Broward County is incorporating, Ostrow noted that self government would allow Fisher Island to have a community council with elections held every two years, or whatever term the community would choose. Ostrow explained that incorporation is a slow and tedious process and that eventually the vote will be in the hands of those who are registered voters of Miami-Dade County. Ostrow stated that the MAC did not have any intention to vote for incorporation unless the entire community wants it and noted that the 303 registered voters or so will be the mechanical step to achieving incorporation. Ostrow explained that the public hearing meeting is not a vote but a process to build

consensus of the overall process. Ostrow asked people to fill out the sheets provided at the sign in table.

Ostrow explained that incorporating is an effort to keep the community's tax money within Fisher Island. Ostrow showed a sample of an average tax bill for a Fisher Island resident. The tax bill was for an apartment of 1.5 million. Ostrow indicated that the taxes are not going to change. Ostrow indicated that in few years the island will have over a billion on assessed taxes. The average tax cost is about 2.1%. Fisher Island pays 22 to 23 million in taxes to Miami-Dade County annually. Ostrow stated that when Fisher Island asked to get money back into their community they get zero dollars; that Fisher Island is a donor community and if they give they have the right to receive.

Fisher Island is paying in taxes and it is not getting it back. As incorporated, it is projected that 12% of 23 million would be safe in the Island; some in reserve and some can be spend in enhance infrastructure. Money cannot be spent on the associations. If and when Fisher Island incorporate funds to save 10 million are achievable. If Fisher island is a continuous donor city and do not get money back from operating expenses, then the only way to get money is to incorporate. Ostrow acknowledge that concern of many residents regarding the Island's privacy.

Ostrow shared a map of Fisher Island. Ostrow indicated that Indian Creek Village is the single most private and affluent city in Miami-Dade County and that they were able to protect its privacy because its town hall is not in the Island. People who want access to the Town Hall can get it without intruding in the Island's privacy. Ostrow explained that the property of the ferry is owned by Fisher Island Developer, which is a part of the Ferry Transportation System; which the developer will transfer to the Island once it is completed. There is a building in there with three rooms, which will provide for a meeting room, a Clerk's, and a Manager's offices.

Ostrow shared a website with the audience **www.fisherislandvillage.org** to obtain more information on the incorporation effort.

Ostrow acknowledged the arrival of County Commissioner Bruno Barreiro. Ostrow stated that the Commissioner was busy at the BCC Chambers and that he had advised that he would arrive late.

Commissioner Barreiro made greeting remarks. Barreiro explained that he wanted to offer some brief words as the MAC went through the process. Barreiro explained that some citizens approached him about creating the MAC, given that he cannot bring public funding to them because of their private status. Barreiro explained that the MAC, process will allow the people to study and determine if the incorporation

process is the best way to proceed. Barreiro expressed regret for missing what the panelist had to say on the incorporation subject. Barreiro shared that he was a State Representative when Kissinger incorporated Key Biscayne. Barreiro encouraged everyone to share their concerns with him as the MAC moves along in the process. Barreiro turned the meeting over to Ostrow.

6. Q&A

Ostrow proceeded with the Q&A portion of the agenda.

Resident: New home-owner and a registered voter in another place, does he still need to fill the form out?

Ostrow: Yes

Resident: How long mitigation last?

Bermudez: In perpetuity

Resident: Is it fixed?

Bermudez: It is cap tied to a CPI index. but it goes up, but the benefit of incorporation is that the value of development goes up.

Barreiro: The reality is that as the majority of the County incorporates then eventually the entire County will incorporate. His perception is that the County will incorporate, then the mitigation issue will need to be revisited by the County Commission.

Bermudez: He believes that mitigation would be required until there are 500,000 residents left in UMSA.

Resident: Can you explain what mitigation is?

Ostrow: It is a sum of money to allow areas to incorporate. Mitigation is a method of revenue sharing after the moratorium was lifted. It is a percentage of revenues produced over UMSA. Tax money helps pay for services on other incorporated areas.

Velar: It is money to mitigate the adverse effect on the unincorporated area for lost revenues.

Resident: I was unaware that revenues were denied to the area.

Ostrow Community Council 16 was the vehicle for that request and denial. The Council provided a list of necessary finding for things such as beach re-nourishment and wind protection for the ferry, Council was upset with the denial of funding.

Barreiro: On the issue. The County cannot spend your tax dollars in your community because you are a private community. In you incorporate, then legally you can bring your money back to your community for roads and infrastructure, by law money can't be spent here due to privacy.

Ostrow: Spoke about the feasibility study and noted that there are 138 units in the land owned by Miami Beach. Incorporation does not wish to split the community.

Velar: Miami Beach already has jurisdiction over the mentioned. area and it would have to deannex the area before the areas could be annexed by a future Fisher Island municipality.

Ostrow: We must concentrate on incorporating the unincorporated area first, then lead the effort to annex the Miami Beach area.

Resident: Is FICA excluded?

Ostrow: FICA is owned by the community but controlled by the developer. When the developer chooses to turn it over to the Island, then it would be turn over to the City Hall.

Resident: Thanked the MAC for the effort of giving their time for the benefit of the Island and expressed deep concerns over privacy, Asked if Fisher Island becomes a city can it prevent people from going to the city and expressed that the story of Indian Creek sounded soft, plus asked whether there was a legal opinion on that.

Ostrow: We spent money to have legal opinions on this issue: He read from the feasibility report. The short answer is that a private island may incorporate if the boundaries extend beyond the island of the community where a City can be maintained then the Island remains as a private community.

Resident: Noted that the opinion is from a lawyer and that a judge in the future can say that moving City Hall out of the Island does not prevent people from going into the Island. The answer from the MAC has to be conclusive because losing privacy would mean losing property value. Advised that the way to get a definite answer is to seek a judicial opinion to be adequately protected.

Kissinger: Clarified that he has only been in Indian Creek for two years. Since the roads in Indian Creek are private then that on itself keeps the island private.

Resident: A question on 90% taxes on all sale items. Miami Beach taxes, are those taxes going to be applicable once we incorporate?

Ostrow: As a MAC we are not ready to discuss taxes.

Resident: Asked whether the beaches would become public. Noted that Indian Creek has no beaches.

Resident: Once you incorporate the ferry, you would have to open the ferry for a fee and noted that legal opinions are meaningless. A similar situation occurred in Connecticut where he also has a resident.

Resident: If someone pulls into the Island with a boat, do we have to let them in?

Sakowsky: Explained that access to the public cannot be denied. Fisher Island has a contract to maintain its beaches. FICA is not going to be incorporated into the Island, then they are not going to allow access.

Resident: The beaches of Fisher Island are public and it has been public for the last fifteen years. The public is unaware of that fact.

Piazzzi: Noted that all beaches in the State of Florida are public. The point of matter remains that privacy can be retained as long as City Hall remains outside of the island.

Resident: Noted that every plan has its faults, this was no difference, yet he was signing the document supporting the incorporation effort. Noted that the property value is up. Encouraged the public to give the MAC a chance to clarify the issue of privacy.

Resident: Asked who is paying for the MAC work?

Ostrow: Your taxes to Miami-Dade County and the incorporation committee has money for attorneys fees. Noted that the MAC cannot receive funds. He welcomed contributions and noted that otherwise it would have to be expenses incurred from their pockets.

Resident: Has there ever been a legal challenge to Indian Creek's privacy?

Kissinger: Noted that he was unaware of any challenges.

Resident: Is the only benefit of incorporating is to retain our own tax money? Noted that the panelist's communities had other issues to wrestle with, such as parks, police; and urban issues.

Vole: Mainly is about self governance. Fisher Island could get money not only from taxes but from permitting fees, sale tax, etc.

Resident: Tried to analogize other communities. Noted that Fisher Island has no business, no parks and asked exactly what there is to govern? Noted that Fisher Island development is cap, so there is no issue there. Wanted to know how he would benefit from an incorporation.

Ostrow: Explained for the benefits of those outside of Miami-Dade County that Broward County has a plan to have all its unincorporated areas incorporated. The BCC must approve the incorporation effort. The purpose to incorporate is to take control out of Miami-Dade County and put it in the hands of the local residents. The City will be able to purchase property and to take out bonds.

Garcia: Rather than residents having to go to downtown, they will be able to deal with someone locally.

Resident: How would incorporation affect foreign investors? What are the consequences?

Garcia: Explained that foreign investors do not have the right to vote because they are not registered voters.

Resident: Would incorporation cut off the influence of foreign investors?

Gamin: Explained that on the contrary, people will retain the influence by being part of the people that they already know closely.

Ostrow: Moved to make closing remarks. Indicated that Fisher Island is a very divided community and hoped the new developer will bring the community together.

Patrick. Member of the Incorporation Committee. I know situation here is a relative recent idea prior the Town Hall was in the Island, but the roads were private. If the road were private, then the public do not have to have access to them. (????)

Resident: Can money for infrastructure be used if resident would take over the club?

Ostrow: No,

Barreiro asked to make closing remarks. Barreiro assured the public that as the process moves forward nothing will be railroaded. Fisher Island exists because of the privacy issue and may have to be addressed with the court if a court can address it.

Barreiro indicated that the MAC process is the vehicle to address those issues.

Barreiro noted that if the residents do not want to use the money, then they can reduce Fisher Island's millage rate.

Barreiro noted that nothing will be force upon the community

7. **Adjournment:** With a unanimous motion from the MAC the public hearing was adjourned.